

WATER RIGHTS SOLUTION

APPLICATION TO THE COURT
PURSUANT TO PARAGRAPH
163 OF THE ABOVE ACTION

. . . And that any party to this action, his heirs, executors, administrators, successors and assigns, who is dissatisfied with the regulations or rules imposed by the said Commissioner, may apply to the court, by written application and said application may be heard upon affidavits or oral testimony as the parties may elect, for a review thereof and an order of direction in the premises.

5. The same paragraph, paragraph 163, limits the diversion of water from the Provo River during the non-irrigation season to diversions for power generation and culinary and domestic uses. The decree limits the quantity of diversion for domestic and culinary uses to such amounts as are reasonably necessary for said uses.

6. So far as applicants can tell, none of the shareholders of the East River Bottom Water Company use East River Bottom Water Company water for culinary purposes. There are a few shareholders who periodically water livestock from the canal ditch. Notwithstanding these facts, with the full knowledge, consent and approval of the Board of Trustees of the East River Bottom Water Company, the Provo River Commissioner systematically diverts the full decreed amount of water into the East River Bottom Water Company canal during the non-irrigation season.

7. The diversion of the full amount of its decreed right, 5.17 second feet of water, during the wintertime is contrary to the provisions of the court order in this matter. The diversion is also harmful to the environment. It reduces the fish habitat in the Provo River and prejudices the chances of survival of the June sucker, an endangered specie, in Utah Lake.

8. Pursuant to paragraph 163 of the Decree in the above entitled action, applicants request that the court enter an order fixing a time for a hearing in this matter to determine the propriety of ordering a reduction in the quantity of water being

diverted from the Provo River; that the court's order determine the manner of accepting proof on such issue; that the order determine the notice to be given to interested parties; that the court determine the identity of the parties entitled to receive notice of and the date on which and the manner in which such proof shall be taken.

Dated: March 28th, 1994.



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